

## Article 38.

### State Insurance of Public School Property.

#### **§ 115C-533. Duty of State Board to operate insurance system.**

The State Board of Education shall have the duty to manage and operate a system of insurance for public school property. The State Board may offer a system of property insurance to any charter schools approved pursuant to G.S. 115C-218.5. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1; 2014-100, s. 8.10; 2014-101, s. 7.)

#### **§ 115C-534. Duty to insure property.**

(a) The board of every local school administrative unit in the public school system of this State, in order to safeguard the investment made in public schools, shall:

(1) Insure and keep insured to the extent of not less than seventy-five percent (75%) of the current insurable value as determined by the insurer and the insured of each of its insurable buildings against fire, lightning and the perils embraced in extended coverage.

(2) Insure and keep insured adequately the equipment and contents of said building.

(b) The tax-levying authority for each local school administrative unit shall appropriate funds necessary for compliance with the provisions of subsection (a).

(c) Willful failure to comply with the provisions of (a) and (b) above, is declared a Class 3 misdemeanor. Every 24 hours without such insurance constitutes a separate offense. (1957, c. 1040; 1981, c. 423, s. 1; 1993, c. 539, s. 893; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 115C-535. Authority and rules for organization of system.**

The Superintendent of Public Instruction is hereby authorized, directed and empowered to establish a division to manage and operate a system of insurance for public school property in accordance with all needed rules and regulations adopted by the State Board of Education. The Board shall adopt such rules and regulations as, in its discretion, may be necessary to provide all details inherent in the insurance of public school property. The Superintendent of Public Instruction shall employ a director, safety inspectors, engineers and other personnel with suitable training and experience, which in his or her opinion is necessary to insure and protect effectively public school property, and he or she shall fix their compensation consistent with the policies of the State Human Resources Commission. (1955, c. 1372, art. 16, s. 1; 1981, c. 423, s. 1; 2016-126, 4th Ex. Sess., s. 25.)

#### **§ 115C-536. Public School Insurance Fund; decrease of premiums when fund reaches five percent of total insurance in force.**

There shall be set up in the books of the State Treasurer a fund to be known and designated as the "Public School Insurance Fund," which fund hereafter in G.S. 115C-535 to 115C-542 is referred to as "the Fund." In order to provide adequate reserves against losses which may be incurred on account of the risks insured against as provided in G.S. 115C-535 to 115C-542 and to provide payment for such losses as may be incurred therein, there is hereby appropriated to the Fund the sum of two million dollars (\$2,000,000), which shall be paid from and charged to the

State Literary Fund as set up and defined in this Chapter. When the reserves in the Fund shall be increased by the payment of premiums by the governing boards of local school administrative school units, or otherwise, to the extent of one million dollars (\$1,000,000), there shall be transferred from the Fund back to the State Literary Fund the sum of one million dollars (\$1,000,000) and when the Fund shall again be increased to the extent of another one million dollars (\$1,000,000), there shall be transferred therefrom back to the State Literary Fund an additional sum of one million dollars (\$1,000,000) in full reimbursement of the sum of two million dollars (\$2,000,000), which is authorized to be transferred from the State Literary Fund by the provisions hereof. All funds paid over to the State Treasurer for premiums on insurance by the governing boards of local school administrative units and all money received from interest or from loans and deposits and from any other source connected with the insurance of the property hereinafter referred to shall be held by the State Treasurer in the Fund for the purpose of paying all fire, lightning, windstorm, hail and explosion losses for which the said Fund shall be liable and the expenses necessary for the proper conduct of the insurance of said property, together with such premiums for reinsurance of such part of said insurance as the State Board of Education may deem necessary to reinsure, as provided for in G.S. 115C-535 to 115C-542. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and 147-69.3.

When the Fund herein provided for reaches the sum of five percent (5%) of the total insurance in force, then annually thereafter the State Board of Education shall proportionately decrease the premiums on insurance to an amount which will be sufficient to maintain the Fund at five percent (5%) of the total insurance in force, and in the event in the judgment of the State Board of Education the income from the investments of the Fund are sufficient to maintain the same at five percent (5%) of the total insurance in force, no premium shall be charged for the ensuing year: Provided, that no building or property insured shall cease to pay premiums until five annual payments of premiums have been made whether or not through such payments the Fund shall be increased beyond five percent (5%) of the total insurance in force, unless such building or property shall cease to be insurable within the meaning of G.S. 115C-535 to 115C-542 within such five-year period. (1955, c. 1372, art. 16, s. 2; 1981, c. 423, s. 1.)

**§ 115C-537. Insurance of property by local boards; notice of election to insure and information to be furnished; outstanding policies.**

All local boards of education may insure all property within their units against the direct loss or damage by fire, lightning, windstorm, hail or explosions resulting by reason of defects in equipment in public school buildings and other public school properties in the Fund hereinbefore set up and provided for. Any property covered by an insurance policy in effect on the date when the property of a unit is insured in the Fund shall be insured by the Fund as of the expiration of the policy. Each local board shall give notice of its election to insure in the Fund at least 30 days prior to such insurance becoming effective and shall furnish to the State Board of Education a full and complete list of all outstanding fire insurance policies, giving in complete detail the name of the insurers, the amount of the insurance and expirations thereof. While the said insurance policies remain in effect, the Fund shall act as coinsurer of the properties covered by such insurance to the same extent and in the same manner as is provided for coinsurance under the provisions of the standard form of fire insurance as provided by law, and in the event of loss shall have the same rights and duties as required by participating insurance companies. (1955, c. 1372, art. 16, s. 3; 1957, c. 686, s. 3; 1981, c. 423, s. 1.)

**§ 115C-538. Inspections of insured public school properties.**

The State Board of Education shall provide for periodic inspections of all public school properties in the State of North Carolina insured under the provisions hereof, the said inspections for safety of buildings and particularly school buildings, against the loss or damage from fire and explosions. The inspections shall be the basis for offering such engineering advice as may be thought to be necessary to safeguard the children in the public schools from death and injury from school fires or explosions and to protect said school properties from loss, and the local boards of education shall be required so far as possible, and reasonable, to carry out and put into effect such recommendations in respect thereto as may be made by the State Board of Education. (1955, c. 1372, art. 16, s. 4; 1981, c. 423, s. 1.)

**§ 115C-539. Information to be furnished prior to insuring in Fund; providing for payment of premiums.**

Local boards of education shall at least 30 days before insuring in the Fund, furnish to the State Board of Education a complete and detailed list of all school buildings and contents thereof and other insurable school property, together with an estimate of the present value of the said property. Valuation for purposes of insuring in the Fund shall be reached by agreement in accordance with the procedure hereinafter set up for adjustment of losses. Local boards of education and the tax-levying authority shall be required to provide for the payment of premiums for insurance on the school properties of each local school administrative unit, respectively, to the extent of not less than seventy-five percent (75%) of the current insurable value of the said properties, including the insurance in fire insurance companies and the insurance provided by the Fund as set out herein. (1955, c. 1372, art. 16, s. 5; 1981, c. 423, s. 1.)

**§ 115C-540. Determination and adjustment of premium rates; certificate as to insurance carried; no lapse; notice as to premiums required, and payment thereof.**

The State Board of Education shall determine the annual premium rate to be charged for insurance of school properties as herein provided, which said rate shall not, however, be in excess of the rates fixed by law for insurance of such properties in effect on May 31, 1948, and such rates shall be adjusted from time to time so as to provide insurance against damage or loss resulting from fires, lightning, windstorm, hail or explosions resulting from defects in equipment in public school buildings and properties for the local school administrative units at the lowest cost possible in keeping with the payment of cost of administration of G.S. 115C-535 to 115C-542, and the creation of adequate reserves to pay losses which may be incurred. The State Board of Education shall furnish to each local school administrative unit annually and, at such times as changes may require, a certificate showing the amount of insurance carried on each item of insurable property. The said insurance shall not lapse but shall remain in force until the local board of education requests that said insurance be canceled or until such property becomes uninsurable in the manner set out in G.S. 115C-542. From time to time the local board of education shall be notified as to the amount of the premiums required to be paid for said insurance and the amounts thereof shall be provided for in the annual budget of such schools. The tax-levying authorities shall provide by taxation or otherwise a sum sufficient to pay the required premiums thereon.

The local board of education shall within 30 days from notice thereof pay to the State Board of Education the premiums on such insurance, and in the event that there are no funds on hand at

such time with which to make said payment, the same shall be paid out of the first funds available to such school board. Delayed payments shall bear interest at the rate of six percent (6%) per annum. (1955, c. 1372, art. 16, s. 6; 1981, c. 423, s. 1.)

**§ 115C-541. Adjustment of losses; determination and report of appraisers; payment of amounts to treasurers of local school administrative units; disbursement of funds.**

In the event of loss or damage by fire, lightning, windstorm, hail, or explosions resulting from defects in equipment in public school buildings and properties for the local school administrative units, the Fund shall pay the loss in the same proportion as the amount of insurance carried bore to the valuation of the property at the time it was insured, but not exceeding the amount which it would cost to repair or replace the property with material of like quality within a reasonable time after such loss, not in excess of the amount of insurance provided for said property, and not in excess of the amount of such loss which the Fund is required to pay in participation with fire insurance companies having policies of insurance in force on said properties at the time of the loss or damage, and the Fund shall not be liable for a greater proportion of any loss than the amount of insurance thereon shall bear to the whole insurance covering the property against the peril involved.

In the event of loss or damage by fire, lightning, windstorm, hail, or explosions resulting from defects in equipment in public school buildings and properties of the local school administrative units, to the property insured, when an agreement as to the extent of such loss or damage cannot be arrived at between the State Board of Education and the local officials having charge of the said property, the amount of such loss or damage shall be determined by three appraisers; one to be named by the State Board of Education, one by the local board of education having charge of the property, and the two so appointed shall select a third, all of whom shall be disinterested persons, and qualified from experience to appraise and value such property: Provided, however, if the appraisers appointed by the State Board of Education and the local board of education shall fail for 15 days to agree upon the third appraiser, then, on request of the State Board of Education or the local board of education having charge of the property, such third appraiser shall be selected by any regular resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 in which the property is located. The appraisers so named shall file their written report with the State Board of Education and with the local board of education having such property in charge. The costs of the appraisal shall be paid by the Fund. Upon the determination of the loss by the appraisers, the State Board of Education shall pay the amount of such loss or damage to school property in the control of the local school administrative unit to its treasurer, upon proper warrant of the State Board of Education. Said funds shall be paid out by the treasurer of said units, as provided by this Chapter for the disbursement of the funds of such unit. (1955, c. 1372, art. 16, s. 7; 1981, c. 423, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 110.)

**§ 115C-542. Maintenance of inspection and engineering service; cancellation of insurance.**

The State Board of Education is authorized and empowered to maintain an inspection and engineering service deemed by it appropriate and necessary to reduce the hazards of fire in public school buildings insured in the Fund as hereinbefore provided, and to expend for such purpose not in excess of ten percent (10%) of the annual premiums collected from the local school authorities. The State Board of Education is hereby authorized and empowered to cancel any insurance on any school property when, in its opinion, because of dilapidation and depreciation

such property is no longer insurable. Before cancellation, the local board of education shall be given at least 30 days notice, and in the event said property can be restored to insurable condition, the State Board of Education may make such orders with respect to the continuance of such coverage as may be deemed proper: Provided, that the findings and results of the inspection of local school property by the agents of the Board shall be reported to local boards of education and to the board of county commissioners of such units as carry insurance with the State 30 days before budget-making time in order that all school property shall be properly taken care of and made safe from fire hazards. (1955, c. 1372, art. 16, s. 8; 1981, c. 423, s. 1.)

**§ 115C-543. Other property insurance.**

The State Board of Education may adopt rules for providing property insurance on property insured by the Fund against all risks of direct physical loss not otherwise insured against pursuant to this Article. Losses covered by this additional insurance shall be paid out of the Fund in the same manner as fire and extended coverage losses.

Each local school administrative unit that elects to purchase this additional insurance shall pay a premium in accordance with rates fixed by the Board. This additional insurance shall be subject to the provisions and stipulations on policy forms approved by the State Board. (1987, c. 312, s. 1.)

**§§ 115C-544 through 115C-546. Reserved for future codification purposes.**